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OFFICE OF PETITIONS

In re Application of	:	
Nathan R. Brown	:	DECISION ON PETITION
Application No. 10/730,813	:	TO WITHDRAW
Filed: 8 December, 2003	:	HOLDING OF ABANDONMENT
Atty Docket No. 500200.06	:	
(29285/US/5)	:	

This is a decision on the petition filed 15 August, 2005, requesting withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed 16 June, 2004. Notice of Abandonment was mailed on 29 June, 2005.

Petitioner asserts that a proper response was timely filed. In support of the petition, petitioner submits a copy of a postcard receipt date-stamped 13 September, 2005, acknowledging receipt of a response in the form of an Amendment. A copy of the amendment is included with the present petition. Additionally the copy of the amendment contains a certificate of mailing in accordance with 37 CFR 1.8, dated 8 September, 2004, signed by Carolyn L. Ross.

The original correspondence filed was not matched with the file at the time the Notice of Abandonment was mailed and cannot be located. However, MPEP 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Office but was not matched with the application file.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is GRANTED.

The application file will be referred to Technology Center Art Unit 3723 technical support staff for entry of the amendment. Thereafter, the application file will be forwarded to the examiner for action in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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